

REMARKS

In light of the above amendatory matter and remarks to follow, reconsideration and allowance of this application are respectfully requested.

Claims 1-44 are pending in the application. Claim 28 has been withdrawn as being directed to a non-elected species. Claims 1, 32 and 38 have been amended. Claims 45-49 have been added. Accordingly, claims 1-27 and 29-49 are presented for consideration.

Rejection under 35 U.S.C. § 102: Peilet, Landen et al., Wise and Vayrette (Newly of Record)

Claims 1-4, 8-13, 15-16, 19-21, 23, 25, 26, 30 and 31 were rejected under 35 U.S.C. § 102(b) as being anticipated by Peilet (U.S. Patent 4,143,667); claims 1, 8-11, 14, 17-18 and 27 were rejected under 35 U.S.C. § 102(b) as being anticipated by Landen et al. (U.S. Patent 3,499,686); and claims 1 and 24 were rejected under 35 U.S.C. § 102(b) as being anticipated by Wise (U.S. Patent 3,521,968). Each of the aforementioned references was applied in the preceding Office Action.

Claims 1-4, 8-17, 19-23, 25, 26, and 29-43 were rejected under 35 U.S.C. § 102(e) as being anticipated by Vayrette (U.S. Patent 6,672,314). Vayrette is newly applied to the claims as of the Office Action under reply.

Independent claim 1 has been amended to recite that the culinary brush recited therein comprises “a cross-sectional area of increasing dimension therethroughout”. Independent claim 32 has been amended to recite that the culinary brush thereof comprises “a cross-sectional area of increasing dimension beginning at a point most opposite coupling thereof to the nozzle and

extending to the junction of the nozzle with the reservoir”. Independent claim 38 has been amended to recite that the culinary brush comprises “an increasing cross-sectional area therethroughout”. Support for such amendment to any of the above claims may be found at paragraph [0022] of the application as filed.

In the Office Action under reply, and in regard to the “Response to Arguments” section provided therein and its discussion of independent claim 1, Applicants respectfully disagree with the assertion that Applicants’ amended claim language was not commensurate in scope with the Remarks applicable to such language.

An inspection of either Peilet, Landen et al. or Wise fails to reveal any basis supporting a finding, or even assertion, of unpatentability of the claims as now amended to include the features discussed above; accordingly, it is respectfully requested that such rejection(s) be withdrawn.

Additionally, newly applied reference Vayrette, while asserted to provide “a cross-sectional area expanding toward coupling [with the nozzle]”, fails to address Applicants’ claims as now amended and discussed hereinabove. First, Vayrette fails to address a “culinary brush” as provided in Applicants’ claims; and instead, speaks only of an apparatus “for applying a product to the hair or to the scalp”. While the Office Action asserts that Applicants’ recitation is merely “intended use”, it is submitted that such recitation is a structural description of Applicants’ invention, and thus, such asserted interpretation is misguided, thereby causing Vayrette to be an insufficient basis to conclude either anticipation or obviousness. Second, if Vayrette is assumed to have some applicability to the claims herein, it provides only, with reference to its Figures 2

and 3, for a reservoir 4 which is intended to be grasped in an intended, particular manner; and as such, is relegated to the configuration shown. Such configuration provides for cross-sectional areas thereof which alternate in dimension so as to deliver the ability for the type of grasping contemplated.

Applicants' culinary brush, conversely, comprises a cross-sectional area, as recited in the claims as amended, which provides a construction thereof that is not limited to the predetermined manner of grasping described above. For instance, such construction as provided in Applicants' claims frees a user in his or her ability to grasp the culinary brush without regard to being required to, for instance, contour his or her hand thereto in order to achieve expulsion or attraction of material. Additionally, such configuration as now provided in Applicants' claims further enhances more complete cleaning of the interior surface of the handle and its reservoir, as will be understood with reference to paragraphs [0021]-[0022] of Applicants' specification.

Thus, in view of the above, it is respectfully submitted that rejection of the claims is not appropriate; and thus, it requested that such rejection be withdrawn.

Rejection in view of Peilet under 35 U.S.C. § 103

Claims 5-7 were rejected under 35 U.S.C. § 103(a) as being obvious in view of Peilet and Vayrette; and claim 44 was rejected under 35 U.S.C. § 103(a) as being obvious in view of Niedospial, Jr. (U.S. Patent 6,287,289).

In view of Applicants' claims, as now amended, and in further consideration of Applicants' remarks with respect to independent claim 1 from which each of claims 5-7 depend, and with respect to independent claim 38 from which claim 44 depends, it is submitted that the

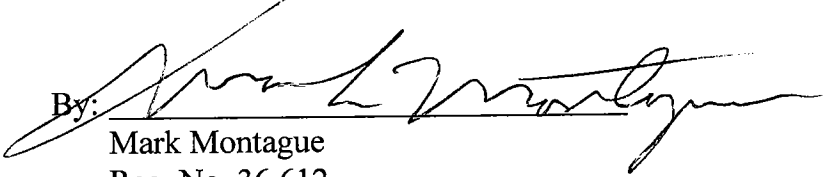
rejection of claims 5-7 and 44 as stated above is no longer appropriate. It is therefore requested that the rejection of claims 5-7 and 44 under 35 U.S.C. § 103(a) as being obvious in view of, respectively, Peilet and Vayrette, and Niedospial, Jr. be withdrawn.

New Claims

New claims 45-49 are presented. Support for such claims may be found particularly at paragraphs [0022]-[0024], and at other portions of the disclosure as may to be understood in conjunction with these aforementioned cited portions.

In light of the foregoing amendments and remarks, reconsideration and allowance of this application are respectfully requested.

Respectfully submitted,

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